

Plaintiff notified Pettigrew that TDT had not answered a case filed in the Western District of Pennsylvania and offered to confer with him before taking any additional steps. *See* Ex. A. Pettigrew did not respond to these emails, but counsel was able to speak to him over the phone. At the time, Pettigrew indicated that neither TDT nor Ms. Lane had spoken to him of this matter filed in the Western District of Pennsylvania. *See* Ex. C, ¶ 8 (Dunlap Declaration).

Since that time, Plaintiff has made almost daily telephone calls to Mr. Pettigrew seeking some information on whether he will represent TDT in the instant case and whether TDT intends to answer. Mr. Pettigrew did not answer or return any calls. *See* Ex. D, ¶ 8 (Liles Declaration).

After the Court filed its Order to Show Cause, Plaintiff was able to contact the registered agent for TDT, Tara Lane, on April 26, 2019. *See* Ex. D ¶ 9 (Liles Declaration). Ms. Lane confirmed that Mr. Pettigrew will be representing TDT in this action, and that TDT intends to file an answer. *Id.* Plaintiff requests additional time for TDT to file its answer and avoid default.

While Plaintiff could have started the process for entry of default as early as March 19, he had good reason to believe that TDT would dutifully respond to the service of process and answer the complaint, as TDT had been sued recently in similar matter and had retained counsel for that action. *See Cervantez v. TDT Consulting, LLC*, CA 3:18-CV-02547 (N.D. Tex filed 09/25/2018). Rushing to enter a default judgment was not in the best interests of any party, and the Third Circuit and this District actively “disfavor default judgments and encourage decisions on the merits.” *See Culver v. U.S. Dep't of Labor Occupational Safety & Health Admin.*, 248 F. App'x 403, 408 (3d Cir. 2007); *Willaman v. Erie Satellite Office of the Bureau of Alcohol*, No. CV 13-229ERIE, 2014 WL 11474846, at *1 (W.D. Pa. July 28, 2014).

As demonstrated by the consistent and meaningful attempts at communication with TDT and its anticipated counsel, Plaintiff has faithfully and diligently prosecuted his claim, seeking to engage in meaningful litigation, rather than pursue a default which would likely be overturned and waste judicial

resources. To further accomplish this end, Plaintiff requests an extension for TDT to file its answer, and anticipates that the answer will be filed shortly. See Ex. C; Ex. D.

WHEREFORE, Plaintiff respectfully request that this Court find that he has submitted sufficient evidence showing his diligent prosecuting of his action, and request that Court further extend the time for Defendant TDT to file its answer and avoid an unnecessary entry and reversal of default.

Respectfully submitted,

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ATTORNEYS IN CHARGE FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served by ECF electronic filing on all known parties on this the 30th day of April 2019.

/s/ Andrew W. Dunlap
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